United Nations CRC/C/OPSC/GAB/CO/1

Convention on the Rights of the Child

Distr.: General
14 July 2016

Original: English

Committee on the Rights of the Child

Concluding observations on the report submitted by Gabon under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*

1. The Committee considered the initial report of Gabon (CRC/C/OPSC/GAB/1) at its 2122nd meeting (see CRC/C/SR.2122), held on 27 May 2016, and adopted the following concluding observations at its 2132nd meeting (see CRC/C/SR.2132), held on 3 June 2016.

I. Introduction

2. The Committee welcomes the submission of the State party's initial report but regrets the absence of written replies to the list of issues, which would have allowed for a better understanding of the implementation of the Optional Protocol in the State party. The Committee appreciates the constructive dialogue held with the high-level State party delegation.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with the concluding observations on the second periodic report submitted by the State party under the Convention (CRC/C/GAB/CO/2), adopted on 3 June 2016.

II. General observations

Positive aspects

4. The Committee notes with appreciation the State party's ratification of:

(a) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, in October 2010;

* Adopted by the Committee at its seventy-second session (17 May-3 June 2016).

(b) The Minimum Age Convention, 1973 (No. 138) of the International Labour Organization, in October 2010.

5. The Committee welcomes the various measures taken by the State party in areas relevant to the implementation of the Optional Protocol, including the adoption of:

(a) The Labour Code, in 2011, with provisions prohibiting child labour until the age of 16;

(b) Law No. 39/2010 of 25 November 2010 establishing a special system of legal aid to children.

III. Data

Data collection

6. The Committee is seriously concerned about the lack of detailed information on the number of reported cases of offences under the Optional Protocol, as well as on the number of prosecutions and convictions.

7. **The Committee urges the State party to:**

(a) **Develop and implement a comprehensive, coordinated and effective system of data collection for all areas covered by the Optional Protocol, including the sale of children, child prostitution and child pornography, in order to ensure effective analysis and monitoring of the situation of children as well as assessment of the impact of measures taken. The data should be disaggregated, inter alia by sex, age, nationality, ethnic origin, geographical location and socioeconomic status;**

(b) **Conduct a situation analysis of the sale of children, including its connection to child marriage, female genital mutilation, child pornography, child prostitution, child trafficking and irregular migration;**

(c) **Collect data on the number of prosecutions and convictions, disaggregated by the nature of the offence.**

IV. General measures of implementation

Legislation

8. The Committee notes that the trafficking of children is prohibited under Law No. 09/2004. The Committee is, however, concerned that neither the law nor the draft children's code fully covers all the offences prohibited under the Optional Protocol, including the sale of children — a concept that is similar, but not identical, to trafficking in children — and child prostitution.

9. **The Committee recommends that the State party ensure that all acts and activities referred to in the Optional Protocol are fully covered under its penal law, including the sale of children, child prostitution and child pornography.**

Comprehensive policy and strategy

10. The Committee notes the role of the national monitoring committee for the implementation of the common platform of action against trafficking of children for labour

exploitation purposes in the elaboration of the national action plan to combat the trafficking of children. The Committee is, however, concerned about the lack of a national policy and strategy for preventing the sale of children and protecting child victims of sexual exploitation.

11. **The Committee recommends that the State party include all issues covered under the Optional Protocol in a comprehensive policy and strategy for children's rights. In doing so, the State party should pay particular attention to the implementation of all the provisions of the Optional Protocol while taking into account the Declaration and Agenda for Action and the Global Commitment adopted at the first, second and third World Congress against Commercial Sexual Exploitation of Children held in Stockholm, Yokohama, Japan, and Rio de Janeiro, Brazil, in 1996, 2001 and 2008, respectively.**

Coordination and evaluation

12. The Committee notes the work of the National Observatory for Children's Rights but is concerned about the insufficient allocation of resources that hinders the Observatory's effective operation and coordination capacities, including in the areas covered by the Optional Protocol.

13. **With reference to its concluding observations under the Convention (see CRC/C/GAB/CO/2, paras. 12 and 13), the Committee recommends that the State party allocate to the National Observatory for Children's Rights the human, technical and financial resources necessary for it to operate effectively and provide coordination, leadership and general oversight for the monitoring and evaluation of activities relating to children's rights under the Optional Protocol that are carried out across sectoral ministries, at both the national and local government levels.**

Dissemination, awareness-raising and training

14. The Committee welcomes the distribution of informational materials about the Optional Protocol to police officers, teachers, non-governmental organizations, church leaders and children since 2010. The Committee is, however, concerned about the continued limited knowledge about the Optional Protocol among law enforcement officials, professionals working with and for children, parents, caretakers and children themselves.

15. **The Committee recommends that the State party include issues relating to the provisions of the Optional Protocol in the educational curricula of law enforcement officials and other professionals working with and for children, as well as in school curricula for children and in training activities for parents and caretakers.**

Allocation of resources

16. The Committee is concerned about the insufficient funds allocated to combating the sale of children, child prostitution and child pornography, including preventing offences under the Optional Protocol and caring for, rehabilitating and reintegrating child victims.

17. **The Committee recommends that the State party:**

(a) **Allocate resources adequate for the effective functioning of the national structures for combating the sale of children, child prostitution and child pornography, including the national agency for the prohibition of child trafficking and provincial committees on preventing and combating child trafficking;**

(b) **Allocate resources for preventing offences under the Optional Protocol and caring for child victims of sale and sexual exploitation, with the aim of avoiding their revictimization and promoting their reinsertion into society.**

Civil society

18. The Committee welcomes the national consultation with civil society to validate the State party's report but is concerned about the lack of institutionalized cooperation with civil-society organizations in the development and implementation of programmes to support child victims of offences under the Optional Protocol and about the decrease in the resources allocated to organizations working in this area.

19. **The Committee recommends that the State party establish partnerships with civil-society organizations to develop and implement adequate programmes of assistance, psychosocial rehabilitation and social reintegration for child victims of offences under the Optional Protocol.**

V. Prevention of the sale of children, child prostitution and child pornography (art. 9 (1) and (2))

Measures adopted to prevent offences prohibited under the Protocol

20. The Committee welcomes the training, meetings and awareness-raising activities conducted by the State party to prevent and fight child trafficking, and notes the cooperation with Benin, Mali and Togo. It is, however, concerned about the lack of specific measures to prevent the occurrence and reoccurrence of offences prohibited under the Optional Protocol notwithstanding the information available about trends and causes, including child poverty, child domestic labour, child marriage and children being in street situations.

21. **The Committee recommends that the State party:**

(a) **Adopt a comprehensive and targeted approach that addresses the root causes and risk factors of offences under the Optional Protocol, including child poverty, child domestic labour, child marriage and children living in street situations, and that targets children in the most vulnerable situations who are at risk of becoming victims of the offences prohibited under the Optional Protocol;**

(b) **Strengthen its efforts to identify, report and support children who are at risk of becoming victims, or are victims, of offences under the Optional Protocol, including through the provincial committees for preventing and combating child trafficking, civil-society organizations and community-based organizations.**

Measures to prevent and tackle online child sexual exploitation and abuse

22. The Committee welcomes the organization by the State party, in partnership with the International Telecommunication Union, of the national stakeholders workshop for child protection online held in Libreville from 6 to 8 May 2015, with the objective of developing strategies to help ensure the protection of children on the Internet. The Committee is, however, concerned about the absence of information on a national response strategy.

23. **With reference to Human Rights Council resolution 31/7 on the "Rights of the child: information and communications technologies and child sexual exploitation" and the outcomes of the 2014 and 2015 WeProtect summits, held in London and Abu Dhabi, respectively, the Committee recommends that the State party adopt a national response for preventing and addressing online child sexual exploitation and abuse, in close collaboration with relevant industries and organizations, consisting at a minimum of:**

(a) **A national policy to prevent and respond to online child sexual exploitation and abuse through an appropriate legal framework; a dedicated coordination and oversight entity; and specific analysis, research and monitoring capabilities;**

(b) **A dedicated, proactive, responsive and victim-focused criminal justice system with trained police, prosecution and judiciary personnel; management of offenders to prevent repeat offences, nationally and internationally; and a national database linked to the International Criminal Police Organization (INTERPOL) database;**

(c) **Appropriate support services for children, including integrated services during investigation, prosecution and aftercare; trained professionals working with and for children; and accessible procedures for complaints, compensation and remedies;**

(d) **A strategy for preventing online child sexual exploitation and abuse, including a public education programme to increase awareness, knowledge and reporting of online child sexual exploitation and abuse offences; child participation in the development of policies and practices; a commitment by the industry to blocking and removing online content involving sexual exploitation and abuse of children, reporting incidents to law enforcement authorities and developing innovative solutions; close cooperation with organizations working to end child sexual exploitation online; and ethical and informed reporting on the issue by the media.**

Child sex tourism

24. The Committee is seriously concerned about the lack of specific studies and data regarding tourism-related child sexual exploitation and pornography and the absence of measures to address commercial sexual exploitation of girls, in particular in Port Gentil.

25. **The Committee recommends that the State party:**

(a) **Study the root causes of and risk factors for tourism-related child sexual exploitation and child pornography, especially that involving girls, and take the measures necessary to prevent those offences, in particular in Port Gentil;**

(b) **Conduct advocacy with the tourism industry concerning the harmful effects of child sex tourism, widely disseminate the World Tourism Organization Global Code of Ethics for Tourism among travel agents and tourism agencies, and encourage these enterprises to become signatories to the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism.**

VI. Prohibition of the sale of children, child pornography and child prostitution and related matters (arts. 3, 4 (2) and (3) and 5-7)

Existing criminal or penal laws and regulations

26. The Committee notes that Gabonese law uses the concept of "trafficking of children" to refer to the concept of "sale of children" referred to in the Optional Protocol. The Committee also notes in this regard the provisions of article 3 of Law No. 09/2004 on Preventing and Combating Trafficking in Children in Gabon as well as articles 11 and 12 prohibiting the trafficking of children for economic exploitation (paras. 16 and 17). It remains concerned, however, that those legal provisions do not cover all acts and activities involving the sale of children, child prostitution and child pornography as referred to in the Optional Protocol.

27. **The Committee recommends that the State party define and criminalize the sale of children, in conformity with article 3 of the Optional Protocol, and not limit the definition to cases of trafficking of children. In particular, the State party should explicitly define and criminalize:**

(a) **The transfer of the organs of a child for profit and forced labour of children as a form of sale of children;**

(b) **The offering, obtaining, procuring or providing of a child for child prostitution;**

(c) **The producing, distributing, disseminating, importing, exporting, offering, selling or possessing of materials for the purpose of child pornography.**

Impunity

28. The Committee is concerned that numerous children are victims of offences under the Optional Protocol and that the number of investigations, prosecutions and convictions is extremely low, a situation that fosters impunity.

29. **The Committee recommends that the State party intensify its efforts to combat impunity and to ensure that crimes under the Optional Protocol are investigated, suspects prosecuted and perpetrators duly sanctioned. In particular, the Committee recommends that the State party:**

(a) **Issue clear instructions to all prosecutors to promptly prosecute cases and ensure that criminal legal proceedings are systematically brought against the perpetrators of offences under the Optional Protocol;**

(b) **Regularly and systematically collect data on cases of investigation, prosecution and conviction of perpetrators of offences under the Optional Protocol;**

(c) **Take all measures necessary to ensure that all cases of sale of children, child prostitution and child pornography are investigated effectively and that perpetrators are prosecuted and punished with appropriate sanctions commensurate with the gravity of their crimes.**

Liability of legal persons

30. The Committee regrets the lack of information about the liability of legal persons, including businesses, under the State party's legislation for offences under the Optional Protocol.

31. **The Committee recommends that the State party ensure that legal persons can be held liable for offences under the Optional Protocol in conformity with article 3 (4) of the Optional Protocol.**

Extraterritorial jurisdiction and extradition

32. The Committee takes note of the information contained in the report of the State party (paras. 20-35) on cases where national courts are competent to handle offences covered by the Optional Protocol under sections 526 to 528 of the Code of Criminal Procedure. The Committee regrets, however, that no action has been taken by the State party to establish its extraterritorial jurisdiction for the purposes of offences referred to in article 3 (1) of the Optional Protocol, when the alleged perpetrator of the offence is a Gabonese citizen, or has his or her habitual residence in Gabon, or when the victim is a Gabonese citizen.

33. **The Committee urges the State party to take the measures necessary to establish its extraterritorial jurisdiction for the purposes of offences referred to in article 3 (1) of the Optional Protocol, when the alleged perpetrator of the offence is a Gabonese citizen, or has his or her habitual residence in Gabon, or when the victim is a Gabonese citizen.**

Extradition

34. **The Committee recommends that the State party consider the Optional Protocol to be a legal basis for extradition in respect of offences covered by the Protocol in cases where there is no bilateral extradition treaty with the other country concerned.**

VII. Protection of the rights of child victims (arts. 8 and 9 (3) and (4))

Measures adopted to protect the rights and interests of child victims of offences prohibited under the Optional Protocol

35. The Committee welcomes the special protective measures for child victims of trafficking contained in Law No. 09/2004 and its corresponding national manual on procedures to support child victims of trafficking. It is concerned, however, that child victims of sale, prostitution and pornography may not benefit from these special protective measures as they do not cover all offences under the Optional Protocol. The Committee is very concerned about the lack of measures to protect the rights of non-Gabonese child victims of offences under the Optional Protocol during their stay in the State party and after their return to their country of origin.

36. **In the light of article 9 (3) of the Optional Protocol, the Committee recommends that the State party review Law No. 09/2004 and its corresponding national manual on procedures to support child victims of trafficking in order to extend special protective measures to child victims of any offence under the Optional Protocol. In accordance with articles 9 and 10 of the Optional Protocol, the Committee urges the State party to promptly sign the draft bilateral agreements with Benin, Mali, Nigeria and Togo in order to provide effective legal support and promote the physical and psychological recovery and full reintegration of children originating from these countries who are victims of offences under the Optional Protocol.**

Criminal justice system protective measures

37. The Committee welcomes the special system of legal aid for children established by Law No. 39/2010, and the creation of juvenile courts, a receiving unit in the Directorate-General of Family and Directorate-General of Protection of the Widow and the Orphan; the youth protection service in the Ministry of Justice; and the units created in police department to facilitate the collection of children's testimonies and the conduct of investigations and prosecutions. It is concerned, however, about the effective implementation of these measures and access to appropriate and free legal services by child victims of offences under the Optional Protocol. It is also concerned about provisions of the Code of Criminal Procedure according to which criminal courts meet only twice a year and there is no requirement to prioritize cases affecting children.

38. **The Committee recommends that the State party:**

(a) **Take appropriate measures to promptly implement Law No. 39/2010 and ensure that every child victim of offences under the Optional Protocol is effectively provided with protective measures and adequate and free legal services;**

(b) **Review the Code of Criminal Procedure so that criminal court sessions are held as appropriate, and give due consideration to cases involving child victims of offences under the Optional Protocol.**

Recovery and reintegration of victims

39. The Committee welcomes the creation of structures to promote the rehabilitation as well as the physical and psychological recovery of children who are victims of offences under the Optional Protocol. The Committee regrets, however, the lack of state-run rehabilitation and reintegration programmes and the fact that social reintegration and assistance are carried out mainly by non-governmental organizations. The Committee is also concerned about the decrease in the resources allocated and the lack of adequate resources for the effective functioning of those non-governmental organizations.

40. **The Committee recommends that the State party increase the availability of state-run social services and strengthen the capacity of government agencies to coordinate assistance to child victims of offences under the Optional Protocol. The Committee also recommends that the State party increase the allocation of resources to non-governmental organizations carrying out social reintegration and assistance tasks for children and establish a regular and predictable budget process in that regard.**

VIII. International assistance and cooperation (art. 10)

Multilateral, bilateral and regional agreements

41. **In the light of article 10 (1) of the Optional Protocol, the Committee encourages the State party to continue to strengthen international cooperation through multilateral, regional and bilateral arrangements, especially with neighbouring countries, including by strengthening procedures and mechanisms for coordinating the implementation of such arrangements, with a view to improving the prevention of offences under the Optional Protocol and the detection, investigation, prosecution and punishment of those responsible for any such offences.**

IX. Follow-up and dissemination

42. **The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia by transmitting them to the relevant government ministries, the Parliament, and national and local authorities for appropriate consideration and further action.**

43. **The Committee recommends that the report and written replies submitted by the State party and the present concluding observations be made widely available, including (but not exclusively) through the Internet, to the public at large, civil-society organizations, youth groups, professional groups and children, in order to generate awareness of and debate concerning the Optional Protocol, its implementation and monitoring thereof.**

X. Next report

44. **In accordance with article 12 (2) of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol and the present concluding observations in its next periodic report, to be submitted in accordance with article 44 of the Convention.**

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